

CIVIL DOCKET  
UNITED STATES DISTRICT COURT

Jury demand date:

D. C. Form No. 106A Rev.

TITLE OF CASE		ATTORNEYS					
UNITED STATES OF AMERICA		<p>For plaintiff:</p> <p>U.S. Atty. Eleanor Thompson, Asst. U.S. Atty. Cecil O. Wood, Jr. <del>287-2359</del> Field Solicitor, Dept. of Interior Pawhuska, Okla. 74056 287-2431</p>					
vs.							
CITY OF PAWHUSKA, OKLAHOMA, a Municipal corporation,		<p>For defendant:</p> <p><del>Robert S. Rizley</del> 583-7571 Prichard, Norman, Reed &amp; Wolgemuth 1100 Philtower Bldg., Tulsa Tulsa, Oklahoma 74103 <del>Files, Mahan, Wilson &amp; Young</del> <del>P. O. Box 207</del> 287-1290 <del>Pawhuska, Okla. 74056</del> Kane, Kane, <u>Wilson</u> &amp; Mattingly P.O. Box 1019 Pawhuska, Ok. 74056 (per ltr. 5/29/75)</p>					
STATISTICAL RECORD	COSTS	DATE	NAME OR RECEIPT NO.	REC.	DISB.		
J.S. 5 mailed 2-1-72 10-1-74 10-1-78	Clerk						
J.S. 6 mailed 8-1-73 1-1-76 3-1-79	Marshal						
Basis of Action: money judgment for damages as result of trespassing	Docket fee						
	Witness fees						
Action arose at:	Depositions						

DATE	PROCEEDINGS	Date Order or Judgment Noted
1-11-72	Complaint filed, summons issued. rm	
1-13-72	Summons, ret. & filed: served Eugene Sell, Mayor of Pawhuska, at Pawhuska, Ok., 1-13-72. (USM \$15.48)g	
2-2-72	Deft's application for extension of time within which to plead, filed.hm	
2-4-72	Order granting extension of time within which deft. may plead or answer, filed. (30 day extension) (LB-J)hm (copies mailed)	
2-22-72	Interrogatories by def. to pltf., filed. rm	
3-6-72	Application for extension of time to plead, filed. ds	
3-20-72	Motion for enlargement of time to answer interrogatories filed by govt.h (Brief included)	
3-21-72	Order Granting Extension of Time within which Deft. May Plead or Answer for thirty (30) days from the 8th of March, filed. (LB-J)v	
3-22-72	Order, filed, that pltf. is granted until 4-23-72 to answer interrogatories. (LB-J)hm (copies mailed)	
4-11-72	Deft's application for extension of time within which to plead, filed. hm	
4-14-72	Order granting def. to 5/12/72 to answer. (LB-J) rm - copies mailed	
4-18-72	Govt's answers to interrogatories, filed. hm	
5-16-72	Deft's application for extension of time to plead, filed. g	
5-16-72	Deft's supplemental interrogatories to pltf., filed. g	
5-17-72	Order granting def. to 6/5/72 to answer. (LB-J)rm - copies mailed	
6-7-72	Deft's application for extension of time within which to plead, filed. hm	
6-12-72	Order granting extension of time within which deft. may plead or answer, filed, extending time for 15 days. (LB-J)hm (copies mailed)	
6-13-72	Answers to supplemental interrogatories, filed. hm	
6-29-72	Application for extension of time within which to plead, filed. hm	
7-12-72	Order granting extension of time within which deft. may plead or answer of 10 days, filed. (LB-J)hm (copies mailed)	
7-18-72	Answer, filed. g	
8-8-72	Case set for Pre-Trials on Thurs., 8-31-72 @9:30 A.M. (LB-J)	
8-16-72	Case stricken from pre-trial assignment of 8-31-72, to be reset on next pre-trial docket. (LB-J)hm (letters written)	
10-4-72	Case set for pre-trial 10-16-72 at 9:30 a.m. (LB-J)hm	
10-16-72	Pre-trial hearing held. Statements made. <u>Deft. files motion for S/J with affidavit and brief in support in open court.</u> Govt. given 10 days to file responsive brief. Court will then enter an order. Court denies govt's request for jury trial. Pre-trial order waived. Case to be set for non-jury trial if motion for S/J is overruled. (EST-1½ days)(LB-J)hm	
10-26-72	Response of govt. to motion for S/J, filed. hm	
11-3-72	Deft.'s Supplemental Brief in Support of Motion for Summary Judgment, filed. v	
11-13-72	Order, filed, that deft's motion for S/J is denied and case is set for pre-trial hearing 12-4-72 at 9:00 a.m. (LB-J)hm (copies mailed)	
12-4-72	Case called for pre-trial hearing and passed to next pre-trial docket upon request of parties. (LB-J)hm	

(cont.)

DATE	PROCEEDINGS	Date Order or Judgment Noted
12-21-72	Case set for pre-trial 1-4-73 at 1:30 p.m. (LB-J)hm	
1-3-73	Case stricken from pre-trial setting of 1-4-73, to be reset at a later date. (LB-J)hm	
1-24-73	Amended Answer to Interrogatory No. 17 filed.h	
1-31-73	Case set for pre-trial hearing 2-14-73 at 10:00 a.m. (LB-J)hm	
2-14-73	Pre-trial hearing held. Statements made. Pre-trial order waived and case to be set for non-jury trial, possibly in March. (EST: 2 days) (LB-J)hm	
3-14-73	Deposition of H.T. Ferrier, taken by Jimmie J. Reed on 1-24-73 on behalf of deft (Fee \$47.00) filed. r	
3-14-73	Deposition of George D. Daly, Jr., taken by Jimmie J. Reed on 1-24-73 on behalf of deft (Fee \$54.00) filed. r	
3-14-73	Deposition of Joseph Roger Lynn, taken by Jimmie J. Reed on 1-24-73 on behalf of deft (Fee \$96.00) filed. r	
3-15-73	Case set for non-jury trial 3-27-73 at 9:00 a.m. (LB-J)hm	
3-22-73	Case stricken from non-jury docket of 3-27-73, to be reset on next docket. (LB-J)hm	
5-8-73	Case set for non-jury trial 5-25-73 at 9:00 A. M. (LB-J)g	
5-22-73	Depo of John M. Graves, taken on 3-23-73, before Jimmie J. Reed, CSR, with fees of \$92.00. v	
5-25-73	Non-Jury Trial held. Parties rep. Deft's Trial Brief and Stipulation as to Facts were filed in Open Court. Govt and Deft are directed to submit F & F and Conclusions of Law within 20 days. (LB-J)r	
5-25-73	Pltf Exhs No. 1 thru 33. Pltfs exhbs Ns 2 thru 9, 16 thru 17, and 20 thru 33 are in file. Remainder are in exh room. r	
5-25-73	Deft. exhs Nos. #4 and #5, in exh. room.r.	
6-14-73	Proposed Findings of Fact & Conclusions of Law on Behalf of Plt., filed. jj	
6-14-73	Pltf's Trial Brief, filed. jj	
6-14-73	Ordered that deft. is granted until 6-29-73 to file brief & suggested F/F & C/L. (LB-J)hm	
7-2-73	Deft's Proposed F/F & C/L, filed. jj	
7-19-73	Findings of fact and conclusions of law, filed. (LB-J) ds	
7-19-73	Judgment filed and entered, that plaintiff recover nothing from the defendant, and judgment rendered in favor of defendant, and against the plaintiff, filed. and entered. (LB-J) ds copies mailed all parties.	

(over)

DATE	PROCEEDINGS	Date Order or Judgment Noted
7-27-73	Pltf's motion to set aside the F/F, C/L & Judgment rendered thereon and grant a new trial; or, in the alternative, to amend the F/F, C/L & Judgment and brief in support thereof, filed. hm	
8-27-73	Hearing held on pltf's motion to set aside F/F, C/L & Judgment rendered thereon and grant a new trial; or, in the alternative, to amend the F/F, C/L & Judgment. Motion overruled and counsel for deft. to prepare formal order. (LB-J)hm	
9-12-73	Order, filed, overruling pltf's mot. to set aside findings of fact, conclusions of law and judgment and for a new trial; or in the alternative to amend findings of fact, conclusions of law and judgment. (LB-J)v	
10-15-73	Transcript of non-jury trial 5-25-73, filed. hm	
11-9-73	Notice of Appeal by U.S.A., filed. Copies to counsel and U.S.C.A.	
12-18-73	Appeal record (3 vols.) sent to USCA. g	
9-27-74	Mandate of USCA, 10th Circuit, reversing judgment of 7-19-74 and remanding cause for a new trial, filed & spread of record. g	
9-27-74	Opinion of USCA, 10th Circuit, filed. g	
9-30-74	Appeal record (Vols. I, II & III and exhibits) recd. from USCA.rm	
1-23-75	MO: Ordered by the Ct. that this case is set for pre-trial for 10 a.m. 1/31/75. (LB-J)rm-notices	
1-31-75	Pre-trial conf. held. Parties rep. by counsel of record. Statements made re Mandate & Opinion of USCA. Def. to make tender to pltf. Ct. may set for trial within next 60-90 days. Pltf. directed to prepare proper pre-trial order. (LB-J)rm	
5-15-75	MO: Case set for non-jury trial for 9:30 a.m., Monday, 6/2/75.(LB-J)rm notices mailed	
5-23-75	Motion to continue trial date, filed by Pltf. w/affidavit of Kenneth Snoke attached. v (o)	
6-2-75	Order granting court trial date to be continued from June 2, 1975 to a date to be fixed by the clerk. (LB-J) cps mld mm	
10-1-75	MO: Case set for non-jury trial for 9:30 a.m., Monday, 11/3/75.(LB-J)rm Notices md.	
10-31	MO: Case is passed from 11/3/75 to 11/5/75 at 9:30 a.m. for non-jury trial.(LB-J)rm-parties notified by phone	
11-5-75	Non-jury trial held. Pltf. rep. by Ken Snoke & Cecil Wood; def. rep. by Robt. Rizley and Bob Wilson. Parties stipulate to the admission of prior testimony of certain witnesses; further stipulate that all previous exhibits be admitted into evidence at this trial; that addl. exhibits will be offered. Parties present case w/testimony of addl. witnesses; exhibits admitted and rest. After closing arguments, Ct. grants parties 30 days to agree on a joint FF/CL. If they cannot agree, Ct. will enter it's Judgment.(LB-J)(F.Sickles-CR)rm	
11-5-75	Stipulation of facts, filed in open court. rm	
11-5-75	Addl. trial exhibits of pltf. and def., filed. rm	
12-8	MO: Case set for further hrg. and disposition for Tuesday, 12/16/75 at 9:00 a.m. (LB-J)rm - notices	

(CONTD)

DATE	PROCEEDINGS	Date Order or Judgment Noted
1975		
12-16	Hearing held on further argument after non-jury trial. Parties rep. by counsel of record. Statements made, re possible settlement. Parties unable to agree on settlement figure. Further oral argument had. Court enters oral judgment that pltf. have and recover from the def. the sum of \$50.00 per acre. Ct. is to prepare final order and judgment. (LB-J)(F. Sickles-CR)rm	
12-18	Findings and Judgment, filed and entered, that pltf. have judg. against def. in amt. of \$42,932, w/int. from date hereof as provided by law; that def. have judg. against pltf. quieting title in fee simple to 858.64 acres; that def. have judg. restraining & enjoining the pltf. from claiming any int. in or title to said 858.64 acres so long as def. owns, operates & controls surface of said land as municipal water reservoir. (LB-J)rm - copies mailed	
2-13-76	Notice of appeal by Plaintiff from Judgment of 12-18-75, filed. ph (Cpy to USCA)	
2-20	Notice of appeal by deft., filed. (cpy to counsel & USA)g	
2-20	Cost bond on appeal, filed. (Maryland Casualty Co., surety)g	
3-11	Notice of record on appeal, filed by appellant U.S.A. k	
3-18	Notice of record on appeal, filed by appellee-def., filed. rm	
3-29	Joint motion for enlargement of time to transmit the record on appeal, filed. ph <i>o to g</i>	
4-1	Order, filed, that Appellant and Cross-Appellant shall each have until May 31, 1976 within which to have the record on appeal transmitted in this case. t cps. mld.	
6-7	Copy of order from 10th Circuit granting parties to 7/30/76 to transmit record on appeal, filed. rm	
7-19	Reporter's transcript of trial proceedings and arguments and statements relative to settlement possibility, had on November 5, 1975 And December 16, 1975, filed. (F. Sickles-CR)rm	
7-19	Original appeal record (5 vls.) transmitted to USCA. rm	
1-5-78	MO: Case set for disposition pursuant to Mandate of 10th Circuit for 1/19/78 at 9:30 a.m. (LB-J)rm-notices	
1-9-78	Mandate and opinion of 10th Circuit, filed and spread of record, reversing & remanding cause with directions to enter judg. for USA as Trustee for Osage Tribe, and against deft. in sum of \$14,546, as permanent damages for injury to Tribe's mineral interests by virtue of City's maintenance of its reservoir. rm	
1-13-78	MO: Case stricken from disposition setting of 1-19-78 and <u>reset</u> for Jan. 26, 1978, at 9:30 a.m. (LB-J)v -parties notified by phone.	
1-23	MO: Case stricken from disposition setting of 1/26/78, to be reset at later date by the Court. (LB-J)rm-parties notified by phone	
1-26	MO: Case reset for disposition for Thurs., 2/9/78 at 9:30 a.m. (LB-J)rm-notices	
1-30	Appeal record (5 vls) received from USCA. rm	

DATE	PROCEEDINGS	Date Order or Judgment Noted
1978 2-8	Hrg. set for Thurs., 2/9/78, is reset for Fri., 2/24/78 at 9:30 a.m. (LB-J)rm-notices	
2-24	Hearing held for disposition of case pursuant to Mandate of 10th Cir. Ken Snoke, Eleanor Thompson & Kathy King present for pltf.; Joel Wohlgemuth & Bob Wilson present for deft. Statements made by parties and Court. Formal judg. to be entered later by Ct.(LB,J)(F.Sickles-CR)rm	
2-24	Findings and Conclusions, filed.(LB-J)rm-copies mailed	
2-24	Order, filed, based upon directions of Circuit Court in its Opinion dated 12/15/77, that pltf. USA have and recover on behalf of Osage Tribe, of and from the deft. the sum of \$14,546, w/int. as provided by law.(LB-J)rm-copies mailed	
3-8	Reporter's transcript (copy) of hrg. held on 2/24/78, re disposition of case pursuant to Mandate of 10th Circuit, filed.(F.Sickles-CR) (pp. 1-19)rm	
4-5	Reporter's transcript (copy) of hrg. held 2/24/78, filed. rm	
5-19	Motion of pltf. to reinstate orig. complaint as to 567.71 acres of inundated land in Osage Cty., filed. rm (copy to LB)	
7-7	Obj. and response of deft. to mo/reinstate of pltf.,filed.rm	
7-7	Brief in support of obj. and response, filed. rm (copy to LB)	
7-27	Order, filed, setting matter for further hrg. and pt conf. for 8/11/78 at 10 a.m. in Okla. City.(LB-J)rm-copies mailed and notices	
7-28	MO: Ordered by the Ct. that hrg. heretofore set for 8/11/78 is stricken and reset for 9/8/78 at 10 a.m., in Okla. City.(LB-J)rm-letter	
9-8	Hearing held. in Okla. City on pltf. mo/reinstate orig. complaint. Counsel present. Statements made. Pltf. to file amended compl. in 10 days; deft. to file ans. in 20 days; pltf. to prepare PT order within 30 days; discovery to be completed in 120 days. Case to be set for non-jury trial. Deft. directed to prepare order overruling deft. objs. to pltf. motion.(LB-J)(B.Bailey-CR)rm	
9-15	Order, filed, that mo/pltf. to reinstate & amend complaint is granted; and deft. obj. thereto is overruled.(LB-J)rm-copies mailed	
9-18	Amended Complaint, filed. rm	
10-25	Answer of defts., filed. rm	
11-13	Check in amt. of \$15,861.11, deposited by deft. in case as pmt. in full of judg. & int. rm	
11-30	Order of disbursement, that Clerk disburse to pltf. sum of \$15,861.11 in pmt. of judg. rendered 2/24/78; that this order in no way will be considered waiver by pltf. of claim & issues currently before ct. by virtue of order of 9/15/78, filed. (LB-J)rm-copies to be md. w/ck.	

DATE	PROCEEDINGS	Date Order or Judgment Noted
1979		
2/16/79	Order, filed, that pltf. USA have and recover on behalf of Osage Tribe of Indians of and from the debt. City of Pawhuska, the sum of \$14,193.00 + int. at rate of 10% per annum from 12/15/77 and any int. debt. may have in Osage oil or gas mining leases connected with Civ. No. 72-C-11 is hereby terminated and released.(LB-J)jc copies mld.	
1980 <u>1-15</u>	ORDER OF DISBURSEMENT, that Clerk disburse \$17,152.14 to pltf. in pmt. of judg.(HDC-Chief Judge)rm-c/m	
1-16	RELEASE & SATISFACTION of judg. of 2-15-79. g	

DATE	PROCEEDINGS	Date Order or Judgment Noted